

WORKSHOP REPORT

ROLES & DUTIES OF PARA-LEGAL VOLUNTEERS¹

4th December, 2019

Objective and Methodology

The workshop was aimed at training Para-Legal Volunteers (PLVs) appointed by the DLSA, North 24 Parganas at police stations and Correctional Homes throughout the said district.

Through interactive sessions, PLVs were encouraged to share their own stories and experiences and put forth queries to panellists to better understand their roles and functions. The aim was to enable PLVs to discharge their functions more efficiently and facilitate effective access to justice. The focus of the session was on the following aspects:

- ✓ Raising awareness on fair trial rights
- ✓ Identification of impediments towards effective functioning of PLVs
- ✓ Imparting of necessary knowledge with respect to the roles and duties of PLVs
- ✓ Equipping PLVs to carry out their functions both at the Correctional Homes and Police Stations efficiently.
- ✓ Enabling knowledgeable and informed interventions through maintenance of proper documentation
- ✓ Formulation of better logistics to enable effective access to justice

Summary of sessions

The training commenced with a round of introductions and explaining of the rationale behind and scope of the workshop by Amrita Paul, Senior Programme Officer, Prison Reforms Programme, CHRI. The scope of the workshop was laid down.

Thereafter, the participants discussed the inviolable Fair Trial Rights assured to the accused followed by the role and duties of a PLV as envisioned in the Revised Scheme of the NALSA. The sessions were interactive as the participants were eager to share their experiences and address the various issues which they were facing in course of their work.

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INTRODUCTION

Commonwealth Human Rights Initiative (CHRI), in collaboration with District Legal Services Authority (DLSA) North 24 Parganas, organized a one day workshop for all the Para-Legal Volunteers (PLVs) appointed by DLSA, North 24 Parganas for the District on 'Roles & Duties of Para-Legal Volunteers' on 4th December, 2019.

The genesis of PLVs lies in the Legal Services Authorities Act 1987 which was enacted to ensure access to justice for all, by establishing dedicated legal services authorities, such as the National Legal Services Authority (at the National level), State Legal Services Authorities (for the respective States) and District Legal Services Authorities (for the respective districts and functioning under the SLSAs), among others. The mandate of these authorities is to provide free and competent legal services to the weaker sections of the society and ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other factors.

In 2010, the Chief Justice of India set up a National Committee for Paralegal Training and Legal Aid Activities. Pursuant to its vision, the National Legal Services Authority (NALSA) framed its Paralegal Volunteer Scheme (PLV Scheme) which, inter alia, provided that:

'Paralegal volunteers help the poor and disadvantaged to free them from the stranglehold of the mighty and powerful for protecting their legal rights. The ultimate object of paralegal volunteers is to help the legal services institutions established under the Legal Services Authorities Act, 1987 for bringing the voice of the voiceless to be heard and to get their grievances redressed. It is indeed a part of the preventive and strategic legal aid programme contemplated under Section 7 (2) (c) of the Legal Services Authorities Act, 1987.

The introductory session was followed by an address by the DLSA Secretary, North 24 Parganas, Mr. Ayan Majumdar, in whose opinion the performance of PLVs generally was not entirely satisfactory. Mr Majumdar then proceeded to highlight some of the underlying issues concerning the work of PLVs at Correctional Homes and Police Stations. The two sessions followed.

Report on Proceedings

The first session began with Ms. Amrita Paul, Senior Programme Officer, CHRI, explaining CHRI's background, mandate and nature of work to the participants. She then went on to describe the role of a PLV as being indispensable in the legal aid machinery. Fundamental questions such as "*who are Paralegal Volunteers?*" and "*what is their role and their functions?*" were shared with the participants. The participants were also asked to explain what they understood by the term "indispensable". Some participants responded by saying that PLVs bridge the communication gap between the legal and judicial system on the one hand and illiterate and/or low-income groups in need of legal assistance on the other. The session discussed threadbare, the roles and functioning of PLVs and the manner in which PLVs could make greater impact through their work.

Since the first step towards implementation is awareness, focusing on the importance of fair trial rights, Ms. Paul elucidated that the current laws governing the police force as well as prisons have become anachronistic. Such laws had been enacted to further colonial interests and perhaps were not entirely suitable for a post-independent India in the 21st century. However, steps have been taken in the last several years to ensure that rights of persons behind bars are not forgotten. The Supreme Court and the High Courts have been active in this regard, and so had been civil society, in initiating dialogue with stakeholders to ease access to justice.

The session expanded upon the question of rights of prisoners, and whether prisoners have any rights, to begin with, and if so, then what are these rights. Ms. Paul gave an overview of such rights, which included: -

- Right to speedy trial (including the Constitutional protection afforded by Articles 21 and 29A)
- Right of access to legal aid at police station itself, within the first 24 hours post arrest.
- Right to be produced before a Magistrate at the earliest / within 24 hours. (The role of a Judicial Magistrate at the time of first production was also explained to the PLVs present)
- Ensuring full medical check-up before admission into a correctional home; among many others.

As stated above, the purpose of the workshop was to further empower PLVs in discharging their functions at specifically police stations and correctional homes. To this end, common circumstances of violation of human and legal rights for persons in custody, and how a PLV could mitigate these violations were discussed. The session discussed the necessary skillset required of a PLV to ensure that persons in custody are aware of their legal rights and receive access to legal aid at the earliest. The session also covered certain prevalent practices in the criminal justice machinery that violate these legal rights, such as the arbitrary / unnecessary and routine extension of remand, procedure and protocol followed at the time of a person's arrest, irregular production of a person in remand and NALSA's scheme on Early Access to Justice at Pre-Arrest, Arrest and Remand stage (announced in August 2019).

With respect to work of PLVs inside Police Stations, the DLSA Secretary, Mr Majumdar explained that it was the duty of a PLV to ensure that persons being brought to police stations get proper assistance in understanding the legal steps such persons could take in their defence. He highlighted the importance of a PLV's work in that they were the first responders in the legal aid mechanism to be present at a police station and available to an arrested person.

Mr Majumdar said that it was the duty of every PLV to immediately inform their respective SLDLSC or DLSA regarding any excesses or omission of any duty on the part of the police. He said that PLVs were empowered to explain to the persons in detention regarding their rights especially the right to

legal aid. Additionally, they could also facilitate communication with the lawyer (if already appointed). They could record the details of these persons in detention, request for appointment of a legal aid lawyer on their behalf and also take care of other legal requirements of a detained person in an appropriate manner.

The second issue highlighted by Mr. Majumdar was that it had often been observed that PLVs appointed by the DLSA under the mandate of the NALSA at police stations were being engaged to assist in the minor administrative or day to day tasks of the police staff. He reminded the participants that they had a very different role and responsibility to discharge at police stations. It was not the job of a PLV to help out police personnel in their other administrative work. Clarity with respect to their roles and functioning coupled with maintaining a neutral and impartial status was vital to the work of a PLV.

During the course of the discussion, an important issue highlighted by several PLVs, particularly those attached to Police Stations, was that they were not provided proper access to persons in custody and that the police staff usually discouraged interaction between the arrestee and the PLV. The participants requested that the same be brought to the notice of the Secretaries of respective DLSAs forthwith so that necessary steps could be taken.

While moving to the role of a PLV in prisons, Ms. Paul briefly explained CHRI's in-house tool for calculating pre-trial detention, Evaluation of Prisoners' Information and Cases.² (EPIC).

The session included extensive discussions on the various issues faced by PLVs in course of their day-to-day work both inside prisons and police stations. Alongside fair trial rights of persons in custody, the session generally covered rights of persons in custody along with common instances where several of these rights could stand violated due to the detainee's lack of awareness. For example, a common issue for inmates, particularly those from outside the State was that they had limited or no contact with their respective families. In several instances, families of prisoners had no information regarding their detention or any information about their case status and overall situation.

Session 2 of the training workshop was mostly interactive where participants shared their queries and personal experiences. The session covered a wider range of aspects of access to legal aid including NALSA's several other schemes towards improving access to legal aid.

The working of Jail Legal Aid Clinics (JLACs) was extensively discussed in the workshop, including the methods of documentation used by PLVs in their interaction with persons in custody at Police Stations and Correctional Homes. There was consensus among participants that documentation was an important tool towards efficient functioning of PLVs.

The various processes and logistics pertaining to the day-to-day work of PLVs were discussed threadbare, all of which has been explained and discussed in *Connecting the Dots*.³

The participants were asked about their awareness on the NALSA Standard Operating Procedure (SOP) on Representation of Persons in Custody, 2016⁴ and the role of PLVs therein. The discussion surrounding the SOP was to understand the criminal justice system as a whole and to understand the role of each of its constituents and actors. The said SOP, which lays out in great detail the procedure to be followed in case of detention of a person in police or judicial custody. The SOP facilitates the need for a uniform system in place to provide legal representation to those in custody under Legal Services Authorities Act, 1987 across the country. It further strengthened the system of interaction of jail visiting lawyers with prison inmates pursuant to representation in Indian

² <https://www.humanrightsinitiative.org/publication/epic-evaluation-of-prisoner-information-and-cases>

³ <https://www.humanrightsinitiative.org/publication/connecting-the-dots-a-handbook-for-paralegals-assigned-to-police-stations-and-prisons>

⁴ <https://www.humanrightsinitiative.org/publication/legal-awareness-material-nalsa-sop-on-representation-of-persons-in-custody>

courts. The PLVs were made of the said SOP in great detail in the context of their role in implementing it.

During the conclusion of the session, the participants pledged to implement all that they had learnt in the workshop in the course of their day-to-day functioning.

Follow up Steps

At the conclusion of the workshop, certain follow-up steps were identified:

1. Sharing of the report of the instant workshop with the Secretary, North 24 Parganas DLSA and the functionaries of SLSA to enable continuance of similar capacity building exercises and interactions.
2. Following up with DLSA North 24 Parganas for passing of requisite orders for streamlining of services rendered by PLVs at police stations and prisons.
3. Continuing to assist in finding practical solutions to systemic problems insofar as PLVs are concerned.